

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Turner of Dallas, Rose, Meyer, Minjarez

H.B. No. 2315

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the forfeiture of contraband relating to the criminal  
3 offense of racing on a highway.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. (a) Article 59.01(2), Code of Criminal  
6 Procedure, as effective until January 1, 2022, is amended to read as  
7 follows:

8 (2) "Contraband" means property of any nature,  
9 including real, personal, tangible, or intangible, that is:

10 (A) used in the commission of:

11 (i) any first or second degree felony under  
12 the Penal Code;

13 (ii) any felony under Section 15.031(b),  
14 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal  
15 Code;

16 (iii) any felony under Chapter 43, Penal  
17 Code, except as provided by Paragraph (B);

18 (iv) any felony under The Securities Act  
19 (Article 581-1 et seq., Vernon's Texas Civil Statutes); or

20 (v) any offense under Chapter 49, Penal  
21 Code, that is punishable as a felony of the third degree or state  
22 jail felony, if the defendant has been previously convicted three  
23 times of an offense under that chapter;

24 (B) used or intended to be used in the commission

1 of:

2 (i) any felony under Chapter 481, Health  
3 and Safety Code (Texas Controlled Substances Act);

4 (ii) any felony under Chapter 483, Health  
5 and Safety Code;

6 (iii) a felony under Chapter 151, Finance  
7 Code;

8 (iv) any felony under Chapter 20A or 34,  
9 Penal Code;

10 (v) a Class A misdemeanor under Subchapter  
11 B, Chapter 365, Health and Safety Code, if the defendant has been  
12 previously convicted twice of an offense under that subchapter;

13 (vi) any felony under Chapter 32, Human  
14 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
15 involves a health care program, as defined by Section 35A.01, Penal  
16 Code;

17 (vii) a Class B misdemeanor under Chapter  
18 522, Business & Commerce Code;

19 (viii) a Class A misdemeanor under Section  
20 306.051, Business & Commerce Code;

21 (ix) any offense under Section 42.10, Penal  
22 Code;

23 (x) any offense under Section 46.06(a)(1)  
24 or 46.14, Penal Code;

25 (xi) any offense under Chapter 71, Penal  
26 Code;

27 (xii) any offense under Section 20.05,

1 20.06, 20.07, 43.04, or 43.05, Penal Code; [~~or~~]

2 (xiii) an offense under Section 326.002,  
3 Business & Commerce Code; or

4 (xiv) a Class A misdemeanor or any felony  
5 under Section 545.420, Transportation Code, other than a Class A  
6 misdemeanor that is classified as a Class A misdemeanor based  
7 solely on conduct constituting a violation of Subsection (e)(2)(B)  
8 of that section;

9 (C) the proceeds gained from the commission of a  
10 felony listed in Paragraph (A) or (B) of this subdivision, a  
11 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii)  
12 of this subdivision, or a crime of violence;

13 (D) acquired with proceeds gained from the  
14 commission of a felony listed in Paragraph (A) or (B) of this  
15 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),  
16 (xi), or (xii) of this subdivision, or a crime of violence;

17 (E) used to facilitate or intended to be used to  
18 facilitate the commission of a felony under Section 15.031 or  
19 Chapter 43, Penal Code; or

20 (F) used to facilitate or intended to be used to  
21 facilitate the commission of an offense under Section 20.05, 20.06,  
22 or 20.07 or Chapter 20A, Penal Code.

23 (b) Article 59.01(2), Code of Criminal Procedure, as  
24 effective on January 1, 2022, is amended to read as follows:

25 (2) "Contraband" means property of any nature,  
26 including real, personal, tangible, or intangible, that is:

27 (A) used in the commission of:

1 (i) any first or second degree felony under  
2 the Penal Code;

3 (ii) any felony under Section 15.031(b),  
4 21.11, or 38.04 or Chapter 29, 30, 31, 32, 33, 33A, or 35, Penal  
5 Code;

6 (iii) any felony under Chapter 43, Penal  
7 Code, except as provided by Paragraph (B);

8 (iv) any felony under The Securities Act  
9 (Title 12, Government Code); or

10 (v) any offense under Chapter 49, Penal  
11 Code, that is punishable as a felony of the third degree or state  
12 jail felony, if the defendant has been previously convicted three  
13 times of an offense under that chapter;

14 (B) used or intended to be used in the commission  
15 of:

16 (i) any felony under Chapter 481, Health  
17 and Safety Code (Texas Controlled Substances Act);

18 (ii) any felony under Chapter 483, Health  
19 and Safety Code;

20 (iii) a felony under Chapter 151, Finance  
21 Code;

22 (iv) any felony under Chapter 20A or 34,  
23 Penal Code;

24 (v) a Class A misdemeanor under Subchapter  
25 B, Chapter 365, Health and Safety Code, if the defendant has been  
26 previously convicted twice of an offense under that subchapter;

27 (vi) any felony under Chapter 32, Human

1 Resources Code, or Chapter 31, 32, 35A, or 37, Penal Code, that  
2 involves a health care program, as defined by Section 35A.01, Penal  
3 Code;

4 (vii) a Class B misdemeanor under Chapter  
5 522, Business & Commerce Code;

6 (viii) a Class A misdemeanor under Section  
7 306.051, Business & Commerce Code;

8 (ix) any offense under Section 42.10, Penal  
9 Code;

10 (x) any offense under Section 46.06(a)(1)  
11 or 46.14, Penal Code;

12 (xi) any offense under Chapter 71, Penal  
13 Code;

14 (xii) any offense under Section 20.05,  
15 20.06, 20.07, 43.04, or 43.05, Penal Code; ~~or~~

16 (xiii) an offense under Section 326.002,  
17 Business & Commerce Code; or

18 (xiv) a Class A misdemeanor or any felony  
19 under Section 545.420, Transportation Code, other than a Class A  
20 misdemeanor that is classified as a Class A misdemeanor based  
21 solely on conduct constituting a violation of Subsection (e)(2)(B)  
22 of that section;

23 (C) the proceeds gained from the commission of a  
24 felony listed in Paragraph (A) or (B) of this subdivision, a  
25 misdemeanor listed in Paragraph (B)(vii), (ix), (x), (xi), or (xii)  
26 of this subdivision, or a crime of violence;

27 (D) acquired with proceeds gained from the

1 commission of a felony listed in Paragraph (A) or (B) of this  
2 subdivision, a misdemeanor listed in Paragraph (B)(vii), (ix), (x),  
3 (xi), or (xii) of this subdivision, or a crime of violence;

4 (E) used to facilitate or intended to be used to  
5 facilitate the commission of a felony under Section 15.031 or  
6 Chapter 43, Penal Code; or

7 (F) used to facilitate or intended to be used to  
8 facilitate the commission of an offense under Section 20.05, 20.06,  
9 or 20.07 or Chapter 20A, Penal Code.

10 SECTION 2. The change in law made by this Act applies only  
11 to property or proceeds seized on or after the effective date of  
12 this Act. Property or proceeds seized before the effective date of  
13 this Act are governed by the law in effect on the date the property  
14 or proceeds were seized, and the former law is continued in effect  
15 for that purpose. For purposes of this section, property or  
16 proceeds were seized before the effective date of this Act if any  
17 portion of the property or proceeds were seized before that date.

18 SECTION 3. This Act takes effect September 1, 2021.

ADOPTED

MAY 26 2021

*Lacey Spaw*  
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Joan Huffman*

1 Amend H.B. No. 2315 (senate committee report) as follows:

2 (1) In SECTION 2 of the bill, adding transition language (page  
3 3, line 28), strike "The change in law made" and substitute the  
4 following:

5 (a) Except as otherwise provided by this section, the changes  
6 in law made by this Act apply only to an offense committed on or  
7 after the effective date of this Act. An offense committed before  
8 the effective date of this Act is governed by the law in effect  
9 when the offense was committed, and the former law is continued in  
10 effect for that purpose. For purposes of this section, an offense  
11 was committed before the effective date of this Act if any element  
12 of the offense occurred before that date.

13 (b) Article 59.01, Code of Criminal Procedure, as amended

14 (2) Add the following appropriately numbered SECTIONS to the  
15 bill and renumber subsequent SECTIONS of the bill accordingly:

16 SECTION \_\_. Section 42.03, Penal Code, is amended by amending  
17 Subsection (c) and adding Subsections (d), (e), and (f) to read as  
18 follows:

19 (c) Except as otherwise provided by Subsections (d) and (e),  
20 an [An] offense under this section is a Class B misdemeanor.

21 (d) Subject to Subsection (e), an offense under this section  
22 is a Class A misdemeanor if it is shown on the trial of the offense  
23 that, at the time of the offense, the person was operating a motor  
24 vehicle while engaging in a reckless driving exhibition.

1       (e) An offense under this section is a state jail felony if  
2 it is shown on the trial of the offense that, at the time of the  
3 offense, the person was operating a motor vehicle while engaging  
4 in a reckless driving exhibition, and:

5           (1) the person has previously been convicted of an  
6 offense punishable under Subsection (d);

7           (2) at the time of the offense, the person was operating  
8 a motor vehicle while intoxicated, as defined by Section 49.01; or

9           (3) a person suffered bodily injury as a result of the  
10 offense.

11       (f) For purposes of this section, "reckless driving  
12 exhibition" means an operator of a motor vehicle, on a highway or  
13 street and in the presence of two or more persons assembled for  
14 the purpose of spectating the conduct, intentionally:

15           (1) breaking the traction of the vehicle's rear tires;

16           (2) spinning the vehicle's rear tires continuously by  
17 pressing the accelerator and increasing the engine speed; and

18           (3) steering the vehicle in a manner designed to rotate  
19 the vehicle.

20       SECTION\_\_\_. Subchapter I, Chapter 545, Transportation Code, is  
21 amended by adding Section 545.4205 to read as follows:

22       Sec. 545.4205. INTERFERENCE WITH PEACE OFFICER INVESTIGATION  
23 OF HIGHWAY RACING OR RECKLESS DRIVING EXHIBITION; CRIMINAL  
24 OFFENSE. (a) A person commits an offense if the person uses the  
25 person's body, a car, or a barricade to knowingly impede or  
26 otherwise interfere with a peace officer's investigation of

1 conduct prohibited under Section 545.420 or a reckless driving  
2 exhibition, as defined by Section 42.03, Penal Code.

3 (b) An offense under this section is a Class B misdemeanor.

4 (c) If conduct constituting an offense under this section  
5 also constitutes an offense under any other law, the actor may be  
6 prosecuted under this section, the other law, or both.

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2315** by Turner, John (Relating to the forfeiture of contraband relating to the criminal offense of racing on a highway.), **As Passed 2nd House**

**Enhancing the penalty for a criminal offense could result in additional demands on the correctional resources of the counties or of the State. The probable fiscal impact of implementing the bill is indeterminate due to the lack of information on the number of cases in which the obstruction of a highway or passageway offense was committed while engaging in certain prohibited driving. This information is necessary to identify only those cases which would be subject to the bill's enhancement provisions.**

The bill would amend various codes as they relate to certain criminal offenses related to highways and motor vehicles. Under the provisions of the bill, if the offense of obstructing a highway or passageway was committed while engaging in certain prohibited driving, it would be punishable as a Class A misdemeanor or as a state jail felony, depending on the circumstances of the offense, and interfering with a peace officer's investigation of highway racing or of a reckless driving exhibition would be punishable as a Class B misdemeanor. Additionally, the definition of contraband would be amended to include, in certain circumstances, property used in the commission of the offense of racing on a highway.

Enhancing the penalty for a criminal offense could result in additional demands on the correctional resources of the counties or of the State due to an increase in individuals placed under supervision in the community or sentenced to terms of confinement in state correctional institutions. The bill may have a negative fiscal impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. Whether the bill would result in a significant fiscal impact is indeterminate due to the lack of information on the number of cases in which the obstruction was committed while engaging in certain prohibited driving. The Comptroller of Public Accounts indicates the fiscal impact on the state cannot be estimated.

**Local Government Impact**

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JMc, LBO, LM, DGI, DKN, AF

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 17, 2021**

**TO:** Honorable John Whitmire, Chair, Senate Committee on Criminal Justice

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2315** by Turner, John (Relating to the forfeiture of contraband relating to the criminal offense of racing on a highway.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to forfeiture of contraband. Under the provisions of the bill, the definition of contraband would be amended to include, in certain circumstances, property used in the commission of the offense of racing on a highway.

This analysis assumes implementing the provisions of the bill would not result in a significant impact on the demand for state correctional resources.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, LM, DGI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 17, 2021**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE:** **HB2315** by Turner, John (Relating to the forfeiture of contraband relating to the criminal offense of racing on a highway.), **Committee Report 1st House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Code of Criminal Procedure as it relates to forfeiture of contraband. Under the provisions of the bill, the definition of *contraband* would be amended to include property used in the commission of the offense of racing on a highway.

The Office of Court Administration and the Department of Public Safety indicate the modifications outlined in the bill's provisions would not result in a significant fiscal impact. The Comptroller of Public Accounts indicates expanding the definition of contraband could result in an increase in revenue, which may be deposited to the state treasury, however the impact to state revenue cannot be estimated.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, LM, DGI

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**March 29, 2021**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2315** by Turner, John (Relating to the prosecution of the criminal offenses of racing on a highway and organized criminal activity involving that conduct and to the forfeiture of contraband relating to that conduct; creating a criminal offense.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend various codes as they relate to the offense of racing on highway. Under the provisions of the bill, knowingly allowing another person to use one's motor vehicle to engage in conduct prohibited under the racing on highway offense would also be prohibited and, under certain circumstances, the offense would be eligible for a penalty enhancement and the motor vehicle could be subject to forfeiture.

The Office of Court Administration and the Department of Public Safety indicate the modifications outlined in the bill's provisions would not result in a significant fiscal impact. The Comptroller of Public Accounts indicates the modifications outlined in the bill's provisions cannot be estimated. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on the demand for state correctional resources.

**Local Government Impact**

A Class B misdemeanor is punishable by a fine of not more than \$2,000, confinement in jail for a term not to exceed 180 days, or both. A Class A misdemeanor is punishable by a fine of not more than \$4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

The Sheriffs' Association of Texas does not expect a significant fiscal impact to counties.

**Source Agencies:** 212 Office of Court Admin, 304 Comptroller of Public Accounts, 405 Department of Public Safety

**LBB Staff:** JMc, DKN, LM, DGI, AF

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2315** by Turner, John (Relating to the forfeiture of contraband relating to the criminal offense of racing on a highway.), **As Passed 2nd House**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to certain criminal offenses related to highways and motor vehicles. Under the provisions of the bill, if the offense of obstructing a highway or passageway was committed while engaging in certain prohibited driving, it would be punishable as a Class A misdemeanor or as a state jail felony, depending on the circumstances of the offense, and interfering with a peace officer investigation of highway racing or of a reckless driving exhibition would be punishable as a Class B misdemeanor. Under existing statute, the offense of obstruction of a highway or passageway is punishable as a Class B misdemeanor.

A state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years and, in addition to confinement, an optional fine not to exceed \$10,000 or Class A misdemeanor punishment. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000.

Enhancing the penalty for a criminal offense could result in additional demands on the correctional resources of the counties or of the State due to an increase in individuals placed under supervision in the community or sentenced to terms of confinement in state correctional institutions. The bill may have a negative population impact by increasing the number of people on felony community supervision or incarcerated within state correctional institutions. From fiscal year 2018 through 2020, 1,623 people were arrested and 9,205 were placed on direct community supervision for the misdemeanor offense which, under the provisions of the bill, could be enhanced to a state jail felony. Whether the bill would result in a significant population impact is indeterminate due to the lack of information on the number of cases in which the obstruction was committed while engaging in certain prohibited driving. This information is necessary to identify only those cases which would be subject to the bill's enhancement provisions.

**Source**

**Agencies:**

**LBB Staff:** JMc, LBO, LM, DKN, DGI

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**CRIMINAL JUSTICE IMPACT STATEMENT**

**87TH LEGISLATIVE REGULAR SESSION**

**March 29, 2021**

**TO:** Honorable Nicole Collier, Chair, House Committee on Criminal Jurisprudence

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB2315** by Turner, John (Relating to the prosecution of the criminal offenses of racing on a highway and organized criminal activity involving that conduct and to the forfeiture of contraband relating to that conduct; creating a criminal offense.), **As Introduced**

The provisions of the bill addressing felony sanctions are the subject of this analysis. The bill would amend various codes as they relate to the offense of racing on highway. Under the provisions of the bill, knowingly allowing another person to use one's motor vehicle to engage in conduct prohibited under the racing on highway offense would also be prohibited and, under certain circumstances, the offense would be eligible for a penalty enhancement. Under current statute, racing on highway is punishable as misdemeanor or a felony, depending on the circumstances of the offense.

A second-degree felony is punishable by confinement in prison for a term from 2 to 20 years, a third degree felony is punishable by confinement in prison for a term from 2 to 10 years, and a state jail felony is punishable by confinement in a state jail for a term from 180 days to 2 years or Class A misdemeanor punishment. In addition to confinement, most felonies can be subject to an optional fine not to exceed \$10,000. A Class A misdemeanor is punishable by confinement in county jail for a term not to exceed one year and, in addition to confinement, an optional fine not to exceed \$4,000. A Class B misdemeanor is punishable by confinement in county jail for a term not to exceed 180 days and in addition to confinement, an optional fine not to exceed \$2,000.

Expanding the list of behaviors for which a criminal penalty can be applied is expected to result in additional demands upon the correctional resources of counties or of the State due to an increase in the number of individuals placed under supervision in the community or sentenced to a term of confinement within state correctional institutions. From fiscal year 2018 to 2020, 3,759 people were arrested, 510 were placed onto direct community supervision, and 12 were admitted into a state correctional institution for the offense of racing on highway under existing statute. This analysis assumes implementing the provisions of the bill addressing felony sanctions would not result in a significant impact on state correctional populations or on the demand for state correctional resources.

**Source**

**Agencies:**

**LBB Staff:** JMc, DKN, LM, DGI